

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 IO-13

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R 131606Z MAY 76

FM USMISSION USBERLIN

TO AMEMBASSY BONN

INFO SECSTATE WASHDC 2500

C O N F I D E N T I A L USBERLIN 1017

E.O. 11652: GDS

TAGS: PGOV, PFOR, WB, GW

SUBJECT: TIGHTER ALLIED CONTROLS ON ACTIVITIES OF FEDERAL PROSECUTOR
IN BERLIN

REF: A) USBERLIN 299 (NOTAL) B) USBERLIN 443 (NOTAL)

1. AS EMBASSY WILL BE AWARE FROM REFTELS WHICH REPEATED
RELEVANT INTRA-BERLIN MESSAGES, WE HAVE FOR SOME TIME
ADOPTED RESERVED ATTITUDE TOWARD PROJECT PUSHED BY
BRITISH TO REVISE BK/L(69)13 TO PROVIDE FORMALLY FOR
EARLIER AND TIGHTER ALLIED CONTROL OVER ACTIVITIES OF
FEDERAL PROSECUTOR IN BERLIN. WE FELT THAT THIS BK/L,
WHICH PROVIDES ONLY THAT SENAT MUST ADVISE US AT SOME
POINT AFTER FEDERAL PROSECUTOR HAS ENTERED CASE IN
BERLIN, SHOULD EVENTUALLY BE IMPROVED. WE WERE RELUCTANT
TO ENTER UPON THIS PROJECT FOR PRESENT, HOWEVER, BECAUSE
WE CONSIDERED THAT SUCH AN ACTION WOULD BE INTERPRETED
AS SIGN OF DISPLEASURE OVER POSSIBLE INVOLVEMENT BY
FEDERAL PROSECUTOR WITH LORENZ KIDNAPPING
CASE. WE CONSIDERED THAT TIMELY INTERVENTIONS WITH
SENAT AND IN BONN GROUP HAD SENSITIZED GERMANS TO
IMMEDIATE PROBLEM AND THAT FRG HAD ALREADY TAKEN
USEFUL INTERNAL STEPS TO REDUCE CHANCES OF UNCO-
ORDINATED ACTION BY FEDERAL PROSECUTOR. IT THUS
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SEEMED APPROPRIATE TO AWAIT AN OPPORTUNITY WHEN WE

COULD AMEND BK/L WITHOUT CREATING IMPLICATION THAT WE WERE CRITICAL OF GERMAN BEHAVIOR, FOR EXAMPLE AT SUCH TIME AS ONE OF VARIOUS DRAFT BILLS NOW IN BUNDESTAG THAT WOULD STRENGTHEN ROLE OF FEDERAL PROSECUTOR IN COMBATTING TERRORIST ACTIVITIES BECAME LAW.

2. BRITISH FINALLY NARROWED THEIR CONCERN TO KARLSRUHE INVOLVMENT IN ESPIONAGE CASES. BRITISH MISSION INDICATED IT WAS UNDER CONSIDERABLE PRESSURE FROM ITS EMBASSY TO OBTAIN SOME FURTHER ALLIED DOCUMENT THAT WOULD REDUCE

CHANCES THAT ALLIES WOULD BE FACED WITH EMBARRASSING ACTIVITY BY ALWAYS DIFFICULT TO CONTROL DR. BUBACK IN MATTER DIRECTLY TOUCHING ALLIED RESPONSIBILITIES FOR SECURITY OF CITY SUCH AS OCCURRED WHEN DR. BUBACK'S OFFICE PREFERRED ESPIONAGE CHARGES IN EARLY 1974 AGAINST PIELUZEK, A MEMBER OF POLICH EMBASSY IN EAST BERLIN, OR AS WAS REAL POSSIBILITY LAST FALL WITH VYATKIN. KARELLIN AFFAIR PROVIDED FURTHER TIMELY EXAMPLE OF TYPE OF PROBLEM BRITISH HAD IN MIND.

3. ALLIED MISSIONS ULTIMATELY REACHED CONSENSUS THAT LETTER FROM CHAIRMAN OF ALLIED KOMMANDATURA LEGAL COMMITTEE TO DR. HEIDELMEYER, CHIEF OF LEGAL SECTION OF SENAT CHANCELLORY, COULD USEFULLY SERVE TO ENSURE THAT SENAT PROVIDED ALLIES WITH TIMELY NOTICE OF ANY IMPENDING MATTER IN ESPIONAGE FIELD WHERE INTERVENTION OF FEDERAL PROSECUTOR MIGHT MAKE IT MORE DIFFICULT FOR ALLIES TO RESOLVE MATTER AS THEY DEEMED APPROPRIATE. LETTER WAS DRAFTED SO AS TO MAKE CLEAR THAT ALLIES WERE ADDRESSING ONLY POSSIBLE ESPIONAGE CASES AND WERE NOT EXPRESSING OBLIQUE CRITICISM OF WAY LORENZ KIDNAPPING CASE HAS THUS FAR BEEN HANDLED. BRITISH AND FRENCH MISSIONS HAVE ACCORDINGLY REFERRED FOLLOWING DRAFT TO THEIR EMBASSIES FOR CONCURRENCE:

BEGIN TEXT: SUBJECT: LEGAL PROCEEDINGS AGAINST PERSONS INVOLVED IN ESPIONAGE ACTIVITIES.

THE ALLIES HAVE REVIEWED THE EXISTING PROCEDURES
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FOR THE SUPPLY OF INFORMATION BY THE SENAT TO THE ALLIES ON LEGAL PROCEEDINGS AGAINST PERSONS INVOLVED IN ESPIONAGE ACTIVITIES. IN VIEW OF THE SPECIAL SENSITIVITY THAT MAY ATTACH TO SUCH CASES AND IN VIEW OF THE RIGHTS AND RESPONSIBILITIES OF THE ALLIES IN THE SECURITY FIELD, THE ALLIES CONSIDER IT IMPORTANT THAT THEY RECEIVE EARLY INFORMATION ABOUT LEGAL PROCEEDINGS IN BERLIN CONTEMPLATED BY THE GERMAN AUTHORITIES AGAINST

PERSONS INVOLVED IN ESPIONAGE ACTIVITIES. THE SENAT IS THEREFORE REQUESTED TO ENSURE THAT THE ALLIED AUTHORITIES BE INFORMED IN GOOD TIME BEFORE ANY PROCEEDINGS ARE INSTITUTED IN BERLIN BY OR ON BEHALF OF THE FEDERAL PROSECUTOR IN RESPECT OF ESPIONAGE ACTIVITIES IN WHICH ANY OF THE PARTIES INVOLVED IS A NON-GERMAN NATIONAL. SUCH INFORMATION SHOULD NORMALLY BE GIVEN TO THE CHAIRMAN OF THE LEGAL COMMITTEE AT THE SAME TIME AS THE FIRST INFORMATION ABOUT THE CASE IS GIVEN TO THE FEDERAL PROSECUTOR. THE SENAT ARE ALSO REQUESTED TO KEEP THE ALLIES INFORMED OF THE PROGRESS OF THE CASE AND CONSULT THE ALLIES BEFORE ANY FINAL DECISIONS ARE TAKEN IN THE CASE.

THE EXISTING PROVISIONS FOR THE SUPPLY OF INFORMATION TO THE ALLIES BY THE GERMAN AUTHORITIES, IN PARTICULAR THOSE REFERRED TO IN BK/L(69)13 AND BK/L(75)21, ARE NOT AFFECTED BY THE ABOVE ARRANGEMENTS.

THE SENAT ARE REMINDED THAT IN ACCORDANCE WITH BK/O(58)3 THE POLICE AUTHORITIES ARE DIRECTLY RESPONSIBLE FOR THE CARRYING OUT OF ANY ORDERS WHICH THE ALLIED AUTHORITIES MAY GIVE IN RELATION TO ANY SUCH CASE. SIMILARLY, IN ACCORDANCE WITH BK/L(69)13 THE ACTIVITIES OF THE FEDERAL PROSECUTOR IN BERLIN ARE SUBJECT TO THE PROVISIONS OF BK/O(53)63. END TEXT.

4. UNLESS EMBASSY PRECEIVES OBJECTION, WE WILL CONFIRM TO ALLIES OUR WILLINGNESS TO HAVE CHAIRMAN OF LEGAL COMMITTEE SEND LETTER. GEORGE

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